

### REMARKS

Claims 7-14 are all the claims pending in the application. By this Amendment, Applicant amends claim 12 to further clarify the invention. In addition, Applicant rewrites claim 13 into its independent form.

#### I. Summary of the Office Action

Claims 12 stands rejected under 35 U.S.C. § 102. Claims 7-11 are allowed and claim 13 contains allowable subject matter.

The Office Action is incomplete in that it fails to address new claim 14. Furthermore, the finality of this Office Action is improper. Applicant has filed an Amendment under **37 C.F.R. § 1.114** in which claim 14 was added. To ensure entry of this Amendment, it was filed with an RCE. As such, this Office Action should have been Non-Final and claim 14 should have been addressed on its merits. Accordingly, Applicant respectfully requests a new Non-Final Office Action.

#### II. Prior Art Rejection

Claim 12 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,741,905 to Fishman et al. (hereinafter “Fishman”). Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Independent claim 12 *inter alia* recites: “automatically determining by an automatic programming decide a type of machining device controlled by a numerical controller, wherein the type of machining device comprises one of: a two-spindle machine having a first main spindle and a sub-spindle and a one-spindle machine having a second main spindle; generating

the machining program for the machining of the workpiece into the product model based on the determined type of the machining device.”

In response to Applicant’s arguments, the Examiner contends that Fishman discloses a user selecting a synchronous mode. Accordingly, the Examiner contends that Fishman discloses the user selecting a type of machining (*see* page 2 of the Office Action). Even assuming *arguendo* that the Examiner’s interpretation of Fishman is technically accurate, Fishman simply discloses the user selecting the synchronous mode and not the device automatically selecting a type of machining. Fishman does not disclose or even remotely suggest having the device determine whether the CNC lathe is a one spindle or two spindle lathe. In other words, Fishman only discloses visually providing for user selection, various synchronization mode sets for different types of machining devices. In Fishman, there is no disclosure or suggestion of any automatic determining the type of the machining device. Since various synchronization modes are graphically displayed for user selection during the creation of the program, it would appear that the type of machining tool is preset in advance at the factory, or later by the user. That is, Fishman only discloses having various sets of synchronization modes for various types of CNC lathes, which are apparently set in advance.

Furthermore, Fishman does not disclose automatic programming that will be applicable to both types of lathes. In other words, in Fishman, there is no disclosure or suggestion of determining the type of lathe and reacting accordingly on an automated basis. That is, in Fishman, the types of lathes appear to be preset in advance by the user or at the factory and various synchronization modes are graphically displayed for user selection based on this preset information. In short, Fishman does not disclose or suggest automatically determining the type of machining device and generating the machining program based on the determined type of the

machining device. On the contrary, in Fishman, the process is manual and the user selects synchronization modes based on the displayed information and the type of lathe then in use.

Therefore, “automatically determining by an automatic programming device a type of machining device controlled by a numeric controller, wherein the type of machining device comprises one of: a two-spindle machine having a first main spindle and a sub-spindle and a one-spindle machine having a second main spindle; generating the machining program for the machining of the workpiece into the product model based on the determined type of the machining device,” as set forth in claim 12 are not disclosed in Fishman, which lacks automatically determining the type of device by the programming device and generating the machining program based on the determination. For at least these exemplary reasons, claim 12 is patentably distinguishable from Fishman. Accordingly, Applicant respectfully requests the Examiner to withdraw this rejection of claim 12.

### III. Allowable Subject Matter

Claims 7-11 are allowed. Claim 13 contains allowable subject matter. Claim 13 has been rewritten into its independent form.

### IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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